



DAN MORALES
ATTORNEY GENERAL

Office of the Attorney General
State of Texas

July 23, 1991

R. Kent Phillips
Assistant Attorney General
Medicaid Fraud Control Unit
Texas Attorney General's Office
P.O. Box 12548
Austin, Texas 78711-2548

OR91-337

Dear Mr. Phillips:

You ask whether certain information in the possession of the Medicaid Fraud Control Unit of the Attorney General's Office is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 12030.

Some of the requested information in the investigative file forwarded to us consists of a nursing home's "Payroll Verification Reports." Those reports contain individual nursing home employees' wage rates and total wages for the pay periods. The wage information is "background financial information" which must be withheld under section 3(a)(1) in conjunction with common law privacy principles. See Open Records Decision No. 523 (1989). We have marked as an example the wage information for the first two entries on page 1 of the payroll records which must be withheld. See Exhibit 9 to the investigative report.

You advise that portions of exhibit 7, which you have marked and forwarded to us, are records of the investigation of a complaint of abuse conducted by the Texas Department of Health in accordance with sections 242.121-242.133 of the Texas Health & Safety Code. Since section 242.127 of that code makes records of such investigations confidential, you must withhold the marked portions of exhibit 7.

We understand that since making your request you have determined to release the balance of the requested information. Assuming that you will in fact release it, we need not address the claims you made with respect to the balance of the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-337.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lb

Ref.: ID# 12030

Enclosures: documents; Open Records Decision No. 523

cc: Ricky W. Pope
Investigator
Atchley, Russell, Waldrop & Hlavinka
1710 Moores Lane
P.O. Box 5517
Texarkana, Ar-Tx 75505-5517

Beth Taylor
Division Chief
Medicaid Fraud Unit
Office of the Attorney General
3000 IH-35 South, Suite 200
Austin, Texas 78704-6536